

FEB 24 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.For: **ELECTROSURGICAL BIOPSY DEVICE
AND METHOD**

Serial No.: 10/650,027

Filed: August 27, 2003

Atty. Docket No.: SENOP-00302

Examiner: Brian S. Szmal

Group Art Unit: 3736

Customer No.: 061808

CERTIFICATE OF TRANSMISSION PURSUANT TO 37 C.F.R. §1.8

I hereby certify that these papers are being sent by facsimile to (571) 273-8300, addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 24, 2009, in San Francisco, CA.

By: 

PETITION TO REVIVE APPLICATION PURSUANT TO 37 C.F.R. §1.137(b)

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition to revive the above-identified application under 37 C.F.R. §1.137(b). A Notice of Abandonment was mailed February 18, 2009 for Applicants's failure to file a timely response to an Office Action mailed June 3, 2008. Applicants' attorney hereby states that the delay in responding was inadvertent and unintentional. The date of abandonment is the day after the expiration date of the period set for reply in the Office Action plus any extensions of time actually obtained which was December 3, 2008.

Based on a telephonic communication of August 26, 2008 with the Examiner, applicants anticipated an Examiner's Amendment regarding the cancellation of the rejected claims would be mailed to applicants. Instead the Patent Office contends in the

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Serial No. 10/650,027
Atty. Docket No. SENOP-00302
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Notice of Abandonment that an Examiner's Amendment could not be submitted without a response from applicant. A response to the office action was filed, however it was not filed within the expiration period for a reply. Applicants's intent is to maintain the application herein.

For the convenience of the Examiner, Applicants provide again a copy of their response to the Office Action mailed June 3, 2008 as filed on January 29, 2009 along with the corresponding Patent Office Auto-Reply Facsimile Transmission as acknowledgement of receipt of that response.

The Commissioner is authorized to charge Deposit Acct. No. 50-4358, the petition fee pursuant to 37 CFR 1.137(b). The Commissioner is further authorized to charge Deposit Acct. No. 50-4358 for any additional fees, the deficiency in payment, and/or to credit any overpayment which may be required under 37 CFR §1.16 and 1.17, referencing Atty. Docket No. SENOP-00302.

Applicants respectfully request revival of the above-identified application and favourable consideration of the concurrently filed amendment.

Respectfully submitted,

By: 

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Attorney for Applicants

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Jan 22 09 09:28 Edward J. Lynch 415 646 8035 p.1	
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